

PROCUREMENT POLICY BOARD
Meeting Minutes
Tuesday, March 6, 2018, 1 p.m.
Comptroller's Conference Room
Kalanimoku Building, Room 410, 1151 Punchbowl Street
Honolulu, Hawaii 96813

Members Present

Elizabeth Webb, Vice-Chair
Kathy Suzuki-Kitagawa, Secretary
Roderick K. Becker
Lena Cullison
Gary Kurokawa
James Mastin

Guests

Shannon Alivado, General Contractors Assn.
June Burke, Grainger
Lance Inouye, General Contractors Association
Shannon Law, AHFI
Kamaile Maldonado, Office of Hawaiian Affairs
Timothy Partelow, AHFI

Staff

State Procurement Office

Sarah Allen, Administrator
Mara Smith, Assistant Administrator
Ruth Baker
Bonnie Kahakui
Stacy Kauleinamoku
Shawn Richey
Kevin Takaesu

Stella Kam, Department of the Attorney General
Audrey Hidano, Department of Accounting and
General Services
Robyn Pfahl, Department of Agriculture

I. Call to Order, Public Notice, Quorum

Vice Chair Elizabeth Webb called the Procurement Policy Board (PPB) meeting to order at 1:00 p.m., with a quorum present.

II. Approval of September 20, 2017, Meeting Minutes

Gary Kurokawa made a motion to accept the minutes of the September 20, 2017, meeting as presented. Kathy Suzuki-Kitagawa seconded the motion, and the PPB members unanimously approved the minutes.

III. Election of Officers

Pursuant to Hawaii Revised Statutes 103D-201(3)(e), the members held an election for the position of chairperson, plus vice-chair and secretary. Lena Cullison made a motion to nominate

- Ms. Webb as Chair
- Ms. Suzuki-Kitagawa as Vice-Chair
- Roderick Becker as Secretary

Mr. Kurokawa seconded the motion, and the PPB members unanimously approved the slate of officers.

IV. PPB Nominating Committee

Ruth Baker of the State Procurement Office (SPO) reported that on March 5, 2017, she followed up with the Office of the Governor on the second person to be appointed to the PPB Nominating Committee, but has not yet received a name. The initial letter requesting the names of two people was sent to the Governor in April 2017.

V. Act 233, SLH 2015, "Relating to Hawaiian Plants"

SPO Administrator Sarah Allen introduced Kevin Takaesu of the SPO and Kamaile Maldonado, Public Policy Advocate of the Office of Hawaiian Affairs (OHA). The SPO had previously presented a draft Procurement Directive and Procurement Circular to the PPB at its January 19, 2017, meeting. The PPB had various questions regarding the substitution and exclusion of plants.

Mr. Takaesu explained that Ms. Maldonado will explain the Procurement Circular, Procurement Directive and Request for Information (RFI) regarding the implementation, request for information, and exclusions to Act 233, SLH 2015, Relating to Hawaiian Plants. The draft Procurement Directive and Procurement Circular were provided to the PPB for review.

Ms. Maldonado explained that HRS § 103D-408 formerly required the use of Hawaiian plants “wherever and whenever feasible,” and now requires that new and renovated public landscaping include gradually increasing minimum percentages of Hawaiian plants, subject to exclusions. The law is to be implemented January 1, 2019, with a gradual timetable for the incorporation of Hawaiian plants as follows:

- 10% of the total plant footprint for landscaping by 2019
- 25% of the total plant footprint for landscaping by 2025
- 35% of the total plant footprint for landscaping by 2035

This requirement is subject to some exclusions, whereby areas landscaped for certain functions can be excluded from the total plant footprint upon which the minimum percentage of Hawaiian plants is based. Calculation of the total plant footprint and excluded areas are described in greater detail in the draft Procurement Circular.

The draft Procurement Circular states that a purchasing agency may approve a request to exclude a certain area of a project from the requirements of Act 233 (SLH 2015) because of special landscaping needs or environmental conditions. The Procurement Circular would establish and effectuate such guidelines and procedures.

Act 233 (SLH 2015) was signed into law by Governor David Y. Ige on July 13, 2015, and went into effect on June 30, 2016. However, the amendments will not affect landscaping plans or projects that have already been initiated, as Act 233 (SLH 2015) does not apply as to impair any contract existing as of the effective date of June 30, 2016.

Ms. Maldonado stated that following the passage of Act 233 (SLH 2015), OHA immediately began working with SPO staff to develop the procedures, standards, and guidelines to support the Act’s exclusion provisions. She added that OHA has contracted to present 12 training sessions to be offered to landscaping professionals and procurement specialists on Hawaiian plants.

Ms. Maldonado reported that the draft Procurement Directive and Procurement Circular were circulated among many landscape industry professionals as well as several representatives of affected state agencies. OHA also presented information about the newly passed legislation at the 2016 Landscape Industry Council of Hawaii (LICH) Conference and received several informal comments during that session. In October 2017, OHA additionally issued a formal RFI requesting comments from landscaping professionals on the drafts of the Procurement Directive and Procurement Circular. OHA received feedback on exclusions based on landscaping needs that cannot be met by Hawaiian plants, and those exclusions were added to the Procurement Circular. There were other agencies and stakeholders who did not respond to the request for feedback on the Procurement Directive and Procurement Circular.

Ms. Allen said that the PPB can add exclusions to the Procurement Circular at any time.

As requested by the PPB members, the SPO will seek feedback on the guidelines and the exclusions to Act 233 (SLH 2015) and the draft Procurement Circular from the Public Works Divisions/Engineering Divisions in the State of Hawaii, and all Chief Procurement Officers.

The matter was tabled to a meeting to be held in April.

VI. Conforming of Rules

Mr. Takaesu informed the PPB that the SPO must amend its Hawaii Administrative Rules (HAR) due to changes to the HRS, or to provide clarity and eliminate ambiguity in the rules. Pursuant to Hawaii Revised Statutes (HRS) §91-5, compilations shall be supplemented as often as necessary and shall be revised at least once every ten years. The SPO amended HAR 3-120, 3-122, and 3-130, in 2016. Mr. Takaesu stated that the SPO must review/compile approximately five chapters of the HARS, including HAR 3-122 and 3-125. After revising/drafting the rules, the SPO will have other state agencies and stakeholders review the rules. The next steps are having the Legislative Reference Bureau review the rules, then submitting the proposed rules to the PPB for review.

VII. 2018 Legislature

Ms. Allen reported that the SPO began the 2018 Legislative Session tracking 44 House Bills and 59 Senate Bills. The SPO continues to track or testify on 20 House Bills and 26 Senate Bills that are still alive after First Decking on March. Some of the bills are as follows:

- [HB 1963 HD1](#) – Directs the PPB to adopt rules that establish procedures for joint offers and contract awards to joint offerors. SPO already allows for this, and testified that this bill is not necessary.
- [HB 2055 HD1](#) – Appropriates funds to the SPO for two full-time construction procurement specialists to support the SPO. SPO supports this bill.
- [HB 2581 HD2](#) – Establishes the Office of Public-Private Partnership (P3) Office and allows P3s to exist in the state. While there are several bills regarding P3s, HB 2581 HD2 brings P3s into the Procurement Code. The Governor's version of the bill has P3s outside of the Procurement Code.
- [SB 2601 SD2](#) – Requires periodic past performance. Ms. Allen will talk about this bill in the agenda item regarding "Past Performance."
- [SB 2602 SD1](#) – Requires the PPB to conduct annual compliance examinations of procurement contracts that are more than \$50,000 of at least two departments, divisions, or agencies. A prior bill required the PPB to conduct audits. While SB 2602 SD1 changed the audits to reviews, the implication of this bill is that the reviews will be made public.
- [SB 2831 SD2](#) and [HB2404](#) – Reinstates the UH President as CPO of UH's construction projects. SPO supports this bill.
- [SB 2913 SD1](#) – Requires training and periodic review training. SPO supports this bill.
- [SB 2996 SD3](#) – Establishes the Hawaii Airports Corporation, which separates the airports from the DOT and exempts the Corporation from the Procurement Code. SPO suggests that the Corporation have its own CPO jurisdiction within the Procurement Code.

VIII. Small Business

Ms. Allen provided background on the small business. There is a small business set-aside in the HRS since 2007, but it has not been implemented. She also reported that the SPO created a Small Business Advisory Group consisting of different stakeholders. Although the SPO is awaiting release of funds appropriated by pursuant to Act 42 (SLH 2017), it is looking at implementing a database in which small business can register.

IX. eProcurement

Ms. Allen reported that the SPO is conducting pre-work with the hope of the implementation of an eProcurement System, which will be a "cradle-to-grave" system that will handle various modules such as contract management, data analytics, vendor management, cataloging, and source selection. Until the SPO can obtain funding for an eProcurement system, it is working with a company that is providing a free business case evaluation on potential cost savings. It is also pulling metrics on gap analysis that was already conducted to see what procurement processes need to be fixed with each department.

X. Hawaii Awards & Notices Data System (HANDS)

HANDS launched on November 20, 2017, an upgrade from the Procurement & Awards Notices (PANS). HANDS incorporates the posting of solicitation and award notices and requests for CPO approvals into one application, with a single login and password. Users can post an award notice directly from a solicitation notice or CPO approval request, or create a solicitation on HiePRO or check compliance. The departments can assign roles and approval paths, and create a notification to all their

department users for both HANDS and HiePRO. Users have their own dashboard to keep track of their solicitations with a calendar and due dates.

After SPO signed the statement of work for the project in August 2016, users were kept updated about the project through procurement circulars and periodic email blasts. In Fall 2017, SPO conducted four training sessions for 76 administrators and 240 users, and posted a video guide, user manuals and webinar recordings on the SPO website.

The SPO continues to work with the developers to improve and enhance HANDS, which was to be a "one-stop shop" in which vendors can view all procurement notices across the state and a few other jurisdictions. The SPO also continues to work with the remaining jurisdictions on being interfacing with HANDS.

XI. Training

Ms. Allen reported that the SPO is working on updating and improving its training webinar, and starting a certification program. The challenge with implementing a certification program is finding one that is affordable for the state. She reiterated that SB 2913 SD1, which requires training, continues to move through the 2018 Legislative Session.

XII. Past Performance

Ms. Allen stated that the PPB last discussed Past Performance during its meeting on October 30, 2014. The PPB asked to table the discussion on Past Performance until after it gets direction from the State Legislature. The issue is brought up in SB 2601 SD2, which will require a review of past performance in accordance with rules adopted by the PPB. The SPO will continue to track this bill. If the bill passes, the PPB can take up the discussion on Past Performance.

XIII. Disaster Preparedness

Ms. Allen said that the SPO will be participating in a disaster preparedness exercise. The SPO and the Hawaii Emergency Management Agency are reviewing the Federal Emergency Management Agency's (FEMA) terms and conditions to ensure that State and Counties have language in our contracts so we are not required to reimburse FEMA for purchases made during emergency situations. Ms. Allen is heading a task force with the National Association of State Procurement Officials to come up with terms and conditions for disaster procurement that can be consistently be applied to NASPO statewide contracts so they can withstand a FEMA audit.

XIV. Announcements

Robyn Pfahl of the Hawaii Department of Agriculture reported that the department is launching an initiative with the SPO on communications/outreach on how locally grown products can be used by state agencies through the Hawaii Product Preference.

XV. Next Meeting

The next PPB meeting will take place in April 2018. SPO staff will take a poll on the availability of members for the next meeting.

XVI. Adjournment

The meeting was adjourned at 2:40 p.m.

Respectfully submitted,



Roderick K. Becker
Secretary, Procurement Policy Board